IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 20247 of 2004

Between:

Mohd. Ghouse, S/o. Late Haneefuddin, Ex-Driver, S.No.251130 of APSRTC., Falaknuma Depot, R/o. H.No. 18-7-425/429 Talahkatta, Bhavaninagar Street No.11,Hyderabad.

..... PETITIONER

AND

Depot Manager, A.P.S.R.T.C. Falaknuma Depot,
Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction particularly one in the nature of Writ of MANDAMUS declaring the action of the respondent in issuing final order No.E2/1(10)/2001-F.M. Dated 17-11-2003 of removal from service violating the (leave) Regulation 11(1)(3) of APSRTC 1963 by nominating his direct subordinate officer who was lower in rank than the Chief Inspector of enquiry and CI/FM to conduct enquiry at depot level under the respondents guidance without furnishing TI/III report, not providing opportunity for cross-examination with TI/III and conducting enquiry on the dropped charge sheet by re-opening the case after two years treating the sick period as not on duty by deducting salaries and not accepting the Government Hospital sick and fitness certificate and subsequently accepting the sick period mentioned in the 2nd charge sheet dated 28-6-2003 issued by the Government Osmania Hospital after receiving interim suspension order in the similar case in W.P.M.P. No. 28881/2003

passed on 3-11-2003 in another petitioners case wherein the respondent was party, is as illegal, unjust, contrary to law and in violation of principles of natural justice by granting all consequential benefits and setting aside the final order No.E2/1(10)2001-F.M. Dt. 17-11-2003issued by the respondent herein, directing the reinstate the petitioner into service with all attendant benefits continuity of service and back wages.

Counsel for the Petitioner: Mr. MOHD.GHOUSEUDDIN

Counsel for the Respondent: Mr. V.T.M.PRASAD

The Court at the admission stage made the following ORDER:

The petitioner worked as a Driver in the respondent-Corporation since 1987. He was

removed from service through the impugned order dated 17-11-2003 in pursuance of an enquiry held against him for unauthorized absence. The petitioner instead of availing the remedies available under the Regulations approached this Court through this Writ Petition seeking a writ of Mandamus declaring to hold that the order of removal dated 17-11-2003 as illegal, arbitrary and violative of the Regulation 11(1) (3) of APSRTC, 1963.

The petitioner is therefore at liberty to approach the concerned authority as provided under the Rules against the impugned order. The Writ Petition at this stage cannot be maintained.

Accordingly, the Writ petition is dismissed with the above observations.

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(Dr.G.YETHIRAJULU,J)

4th November, 2004.

tsy

To

1. The Depot Manager,

A.P.S.R.T.C. Falaknuma Depot,
Hyderabad.

2. Two CD Copies.